



February 13, 2004

ENGROSSED SENATE BILL No. 41

DIGEST OF SB 41 (Updated February 11, 2004 3:07 pm - DI 77)

Citations Affected: IC 16-18; IC 16-25; IC 16-27.

Synopsis: Home health care and hospice services council. Creates the home health care services and hospice services council. Provides that the state department of health shall pay the council's expenses. Allows the council to propose rules and act as an advisory body.

Effective: July 1, 2004.

Miller, Howard

(HOUSE SPONSORS — BROWN C, WELCH)

November 18, 2003, read first time and referred to Committee on Health and Provider Services.

January 22, 2004, amended, reported favorably — Do Pass.

February 2, 2004, read second time, amended, ordered engrossed.

February 3, 2004, engrossed. Read third time, passed. Yeas 48, nays 1.

HOUSE ACTION

February 5, 2004, read first time and referred to Committee on Public Health.

February 12, 2004, amended, reported — Do Pass.

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ES 41—LS 6135/DI 110+



February 13, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 41

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-18-2-84 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 84. "Council" refers to
3 the following:

4 (1) For purposes of IC 16-21, the hospital council.

5 (2) **For purposes of IC 16-25 and IC 16-27, the home health**
6 **care services and hospice services council.**

7 (3) For purposes of IC 16-28 and IC 16-29, the Indiana health
8 facilities council.

9 ~~(3)~~ (4) For purposes of IC 16-46-6, the interagency state council
10 on black and minority health.

11 SECTION 2. IC 16-18-2-96, AS AMENDED BY P.L.2-2003,
12 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2004]: Sec. 96. (a) "Director", for purposes of IC 16-19-13,
14 refers to the director of the office of women's health established by
15 IC 16-19-13.

16 (b) **"Director", for purposes of IC 16-27, means the individual**
17 **acting under the authority of and assigned the responsibility by the**

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1 **state health commissioner to implement IC 16-27.**

2 (c) "Director", for purposes of IC 16-28, IC 16-29, and IC 16-30,
3 means the individual acting under the authority of and assigned the
4 responsibility by the state health commissioner to implement IC 16-28,
5 IC 16-29, and IC 16-30.

6 ~~(c)~~ (d) "Director", for purposes of IC 16-31, refers to the director of
7 the state emergency management agency established under
8 IC 10-14-2-1.

9 ~~(d)~~ (e) "Director", for purposes of IC 16-35-2, refers to the director
10 of the program for children with special health care needs.

11 SECTION 3. IC 16-18-2-97 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 97. "Division" means
13 the following:

14 (1) For purposes of IC 16-22-8, the meaning set forth in
15 IC 16-22-8-3.

16 (2) **For purposes of IC 16-27, a group of individuals under the**
17 **supervision of the director within the state department**
18 **assigned the responsibility of implementing IC 16-27.**

19 (3) For purposes of IC 16-28, a group of individuals under the
20 supervision of the director within the state department assigned
21 the responsibility of implementing IC 16-28.

22 ~~(3)~~ (4) For purposes of IC 16-41-40, the meaning set forth in
23 IC 16-41-40-1.

24 SECTION 4. IC 16-25-3-2.5 IS ADDED TO THE INDIANA CODE
25 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
26 1, 2004]: **Sec. 2.5. The state department shall administer this**
27 **chapter with the advice of the home health care services and**
28 **hospice services council established by IC 16-27-0.5-1.**

29 SECTION 5. IC 16-27-0.5 IS ADDED TO THE INDIANA CODE
30 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2004]:

32 **Chapter 0.5. Home Health Care Services and Hospice Services**
33 **Council**

34 **Sec. 1. (a) The home health care services and hospice services**
35 **council is established.**

36 (b) **The council consists of sixteen (16) members as follows:**

37 (1) **One (1) licensed physician experienced in home health**
38 **care.**

39 (2) **One (1) licensed physician with certification in hospice and**
40 **palliative medicine.**

41 (3) **Four (4) individuals as follows:**

42 (A) **One (1) individual engaged in the administration of a**

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- 1 nonhospital based home health agency.
- 2 (B) One (1) individual engaged in the administration of a
- 3 hospital based home health agency.
- 4 (C) One (1) individual engaged in the administration of:
- 5 (i) a nonhospital based hospice; or
- 6 (ii) a hospice licensed under IC 16-25-3 that provides
- 7 in-patient care.
- 8 (D) One (1) individual engaged in the administration of a
- 9 hospital based hospice.
- 10 (4) One (1) registered nurse who is licensed under IC 25-23
- 11 and experienced in home health care.
- 12 (5) One (1) registered nurse who is licensed under IC 25-23
- 13 with certification in hospice and palliative medicine.
- 14 (6) One (1):
- 15 (A) physical therapist licensed under IC 25-27;
- 16 (B) occupational therapist certified under IC 25-23.5; or
- 17 (C) speech-language pathologist licensed under IC 25-35.6;
- 18 experienced in home health care.
- 19 (7) One (1) citizen having knowledge of or experience in
- 20 hospice care.
- 21 (8) One (1) citizen having knowledge of or experience in home
- 22 health agency care.
- 23 (9) One (1) registered pharmacist who is licensed under
- 24 IC 25-26 with experience in hospice and palliative medicine.
- 25 (10) One (1) respiratory care practitioner who is licensed
- 26 under IC 25-34.5 and experienced in home care.
- 27 (11) One (1) individual who is a bereavement counselor with
- 28 experience in hospice care.
- 29 (12) The commissioner or the commissioner's designee.
- 30 (13) The secretary of family and social services or the
- 31 secretary's designee.
- 32 (c) The governor shall appoint the members of the council
- 33 designated by subsection (b)(1) through (b)(11).
- 34 (d) Except for the members of the council designated by
- 35 subsection (b)(12) through (b)(13), all appointments are for four (4)
- 36 years. If a vacancy occurs, the appointee serves for the remainder
- 37 of the unexpired term. A vacancy shall be filled from the same
- 38 group that was represented by the outgoing member.
- 39 (e) Except for the members of the council designated by
- 40 subsection (b)(3), a member of the council may not have a
- 41 pecuniary interest in the operation of or provide professional
- 42 services through employment or under contract to a home health

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1 agency licensed under this article or a hospice licensed under
2 IC 16-25.

3 Sec. 2. (a) The state department shall pay the expenses of the
4 council.

5 (b) A member of the council who is not a state employee is
6 entitled to the minimum salary per diem provided by
7 IC 4-10-11-2.1(b). A member is entitled to reimbursement for
8 traveling expenses as provided under IC 4-13-1-4 and other
9 expenses actually incurred in connection with the member's duties,
10 as provided in the state policies and procedures established by the
11 Indiana department of administration and approved by the budget
12 agency.

13 (c) Each member of the council who is a state employee is
14 entitled to reimbursement for traveling expenses as provided under
15 IC 4-13-1-4 and other expenses actually incurred in connection
16 with the member's duties as provided in the state policies and
17 procedures established by the Indiana department of
18 administration and approved by the budget agency.

19 Sec. 3. The governor shall appoint one (1) council member to
20 serve as chair and one (1) council member to serve as vice chair.

21 Sec. 4. The director serves as secretary to the council.

22 Sec. 5. (a) The council shall meet at least four (4) times a year.

23 (b) Special meetings of the council shall be called by the chair
24 upon the written request of four (4) members of the council.

25 Sec. 6. (a) Nine (9) members of the council constitute a quorum
26 for the transaction of all business of the council. The affirmative
27 votes of a majority of the voting members appointed to the council
28 are required for the council to take action on any measure.

29 (b) The council shall establish procedures to govern the
30 council's deliberations.

31 Sec. 7. Subject to the rulemaking authority granted in IC 16-25
32 and IC 16-27, the council shall do the following:

33 (1) Propose the adoption of rules by the state department
34 under IC 4-22-2 governing the following:

35 (A) Health and sanitation standards necessary to protect
36 the health, safety, security, rights, and welfare of home
37 health care patients and hospice patients.

38 (B) Qualifications of applicants for licenses issued under
39 IC 16-25 and IC 16-27.

40 (2) Recommend to other state agencies or governing bodies
41 rules necessary to protect the health, safety, security, rights,
42 and welfare of home health care patients and hospice patients.

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1 (3) Act as an advisory body for the division, state health
2 commissioner, and state department.

3 Sec. 8. The council may recommend interpretive guidelines
4 when necessary to assist a home health agency or hospice in
5 meeting the requirements of a rule.

6 Sec. 9. (a) The state department may request the council to
7 propose a new rule or an amendment to a rule necessary to protect
8 the health, safety, rights, and welfare of the home health care
9 patients and hospice patients. If the council does not propose a rule
10 within ninety (90) days after the state department's request, the
11 state department may propose the rule.

12 (b) The executive board shall consider rules proposed by the
13 council under this section and section 7 of this chapter. The
14 executive board may adopt, modify, remand, or reject specific
15 rules or parts of rules proposed by the council.

16 (c) To become effective, all rules proposed by the council under
17 this chapter must be adopted by the executive board in accordance
18 with IC 4-22-2.

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COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 41, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 37, delete ", each of whom is engaged in the" and insert **"as follows:"**.

Page 2, delete line 38.

Page 2, line 39, after "(A)" delete "A" and insert **"One (1) individual engaged in the administration of a"**.

Page 2, line 40, delete "A" and insert **"One (1) individual engaged in the administration of a"**.

Page 2, line 41, delete "A" and insert **"One (1) individual engaged in the administration of a"**.

Page 2, line 42, delete "A" and insert **"One (1) individual engaged in the administration of a"**.

Page 3, line 1, delete "A" and insert **"One (1) individual engaged in the administration of a"**.

Page 3, line 2, delete "A" and insert **"One (1) individual engaged in the administration of a"**.

Page 3, line 3, after "nurse" insert **"who is"**.

Page 3, line 3, delete "IC 25-23." and insert **"IC 25-23 and experienced in home health or hospice care."**.

Page 3, line 13, after "pharmacist" insert **"who is"**.

Page 3, line 13, delete "IC 25-26." and insert **"IC 25-26 and experienced in home health or hospice care."**.

Page 4, line 4, delete "Each year the council shall elect from among council" and insert **"The governor shall appoint one (1) council member to serve as chair and one (1) council member to serve as vice chair."**.

Page 4, delete line 5.

Page 4, line 11, after "council." insert **"The affirmative votes of a majority of the voting members appointed to the council are required for the council to take action on any measure."**.

Page 4, line 37, delete "1" and insert **"7"**.

and when so amended that said bill do pass.

(Reference is to SB 41 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 8, Nays 2.

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SENATE MOTION

Madam President: I move that Senate Bill 41 be amended to read as follows:

Page 1, line 6, delete "agency".

Page 1, line 6, after "hospice" insert "**service**".

Page 2, line 27, after "of the" insert "**home health and hospice service**".

Page 2, line 32, delete "Agency".

Page 2, line 32, after "Hospice" insert "**Service**".

Page 2, line 33, delete "agency".

Page 2, line 33, after "hospice" insert "**service**".

Page 2, line 35, delete "fourteen (14)" and insert "**sixteen (16)**".

Page 2, line 41, delete "nonprofit" and insert "**nonhospital based**".

Page 3, line 4, delete "of a" and insert "**of**:"

(i) a nonhospital based hospice; or

(ii) a hospice licensed under IC 16-25-3 that provides in-patient care."

Page 3, delete line 5.

Page 3, line 14, delete "or hospice".

Page 3, between lines 20 and 21, begin a new line block indented and insert:

"(8) One (1) respiratory care practitioner who is licensed under IC 25-34.5.

(9) One (1) individual who is:

(A) a bereavement counselor; or

(B) a clergy member with experience in bereavement counseling."

Page 3, line 21, delete "(8)" and insert "**(10)**".

Page 3, line 22, delete "(9)" and insert "**(11)**".

Page 3, line 25, delete "(b)(7)." and insert "**(b)(9).**"

Page 3, line 27, delete "subsection (b)(8)" and insert "**subsection (b)(10)**".

Page 3, line 27, delete "(b)(9)," and insert "**(b)(11),"**

Page 4, line 14, delete "six (6)" and insert "**four (4)**".

Page 4, line 17, delete "Eight (8)" and insert "**Nine (9)**".

(Reference is to SB 41 as printed January 23, 2004.)

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SENATE MOTION

Madam President: I move that Senator Howard be added as coauthor of Engrossed Senate Bill 41.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 41, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 5, after "health" insert "**care services**".

Page 1, line 6, delete "service" and insert "**services**".

Page 2, line 27, after "health" insert "**care services**".

Page 2, line 27, after "hospice" delete "service" insert "**services**".

Page 2, line 32, after "Health" insert "**Care Services**".

Page 2, line 32, after "Hospice" delete "Service" insert "**Services**".

Page 2, line 33, after "health" insert "**care services**".

Page 2, line 33, after "hospice" delete "service" insert "**services**".

Page 2, line 36, after "physician" insert "**experienced in home health care**".

Page 2, between lines 36 and 37, begin a new line block indented and insert:

"(2) One (1) licensed physician with certification in hospice and palliative medicine."

Page 2, line 37, delete "(2) Six (6)" and insert "**(3) Four (4)**".

Page 2, delete lines 38 through 39.

Page 2, line 40, delete "(B)" and insert "**(A)**".

Page 2, line 42, delete "(C)" and insert "**(B)**".

Page 3, delete lines 2 through 3.

Page 3, line 4, delete "(E)" and insert "**(C)**".

Page 3, line 8, delete "(F)" and insert "**(D)**".

Page 3, line 10, delete "(3)" and insert "**(4)**".

Page 3, line 11, delete "or hospice".

Page 3, between lines 11 and 12, begin a new line block indented and insert:

"(5) One (1) registered nurse who is licensed under IC 25-23 with certification in hospice and palliative medicine."

Page 3, line 12, delete "(4)" and insert "**(6)**".

Page 3, line 17, delete "(5)" and insert "**(7)**".

Page 3, line 19, delete "(6)" and insert "**(8)**".

Page 3, line 21, delete "(7)" and insert "**(9)**".

Page 3, line 22, delete "and experienced in home health or hospice care." and insert "**with experience in hospice and palliative medicine**".

Page 3, line 23, delete "(8)" and insert "**(10)**".

Page 3, line 24, after "IC 25-34.5" insert "**and experienced in home**

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care".

Page 3, line 25, delete "(9)" and insert "(11)".

Page 3, line 25, delete "is:" and insert "**is a bereavement counselor with experience in hospice care.**".

Page 3, delete lines 26 through 28.

Page 3, line 29, delete "(10)" and insert "(12)".

Page 3, line 30, delete "(11)" and insert "(13)".

Page 3, line 30, delete "director of the division of disability, aging, and" and insert "**secretary of family and social services or the secretary's designee.**".

Page 3, delete line 31.

Page 3, line 33, delete "(b)(9)" and insert "**(b)(11)**".

Page 3, line 35, delete "(b)(10) and (b)(11)" and insert "**(b)(12) through (b)(13)**".

Page 4, line 31, delete "The" and insert "**Subject to the rulemaking authority granted in IC 16-25 and IC 16-27, the**".

Page 4, line 40, delete "(b)(2)" and insert "**(b)(3)**".

and when so amended that said bill do pass.

(Reference is to SB 41 as reprinted February 3, 2004.)

BROWN C, Chair

Committee Vote: yeas 11, nays 0.

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